IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Vakta. Versus State of Rajasthan.

S.B. Criminal Revision Petition No.990/2005 against the judgment & order dt. 29-10-2005 passed by the Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Pratapgarh, in Criminal Appeal No.32/2005.

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Date of Order: June 02, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sandeep Sarupariya, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal revision under Section 397/401 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the judgment and order dated 29-10-2005 passed by the Additional Sessions Judge cum Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Pratapgarh (for short, "the Appellate Court" hereinafter) in Criminal Appeal No. 32/2005, whereby the appeal filed by the petitioner against the judgment and order dated 26-9-2005

passed by the Additional Chief Judicial Magistrate, Pratapgarh (for short, "the trial Court" hereinafter) in Criminal Case No.61/2005, has been dismissed and the judgment of conviction of the petitioner under Section 411/75 IPC and the order of sentence of two years' rigorous imprisonment and a fine of Rs.1000/-, in default of payment of fine further to undergo one month's simple imprisonment has been affirmed. Being aggrieved by the impugned judgment and order passed by the Appellate Court, the petitioner has preferred the instant criminal revision.

At the very out-set, learned counsel for the petitioner submits that the petitioner does not want to challenge his conviction; however, learned counsel for the petitioner has confined his argument only to the question of sentence. It has been submitted by the learned counsel for the petitioner that the maximum substantive sentence awarded by the trial Court and affirmed by the Appellate Court is two years' rigorous imprisonment, out of which the petitioner has already undergone the imprisonment for 15 months and, therefore, the substantive sentence awarded to the petitioner may be reduced to the period of imprisonment already undergone by him. Learned Public Prosecutor has supported the judgments and orders passed by the Courts below.

I have carefully gone through the judgments and orders passed by the Courts below and also perused the record of the trial Court.

There are concurrent findings of the Courts below holding the petitioner guilty of the offence under Section 411/75 IPC. The judgments and orders of the Courts below are well-reasoned and based on sound and proper appreciation of oral and documentary evidence on record, which do not require any interference in the revisional jurisdiction. In this view of the matter, the learned counsel for the petitioner is fair enough in not assailing the conviction against the petitioner.

Out of the substantive sentence of two years, the petitioner has already undergone imprisonment for 15 months. In this view of the matter, in my view, the ends of justice would be met if the substantive sentence of imprisonment awarded to the petitioner is reduced to the period of imprisonment already undergone by him.

Consequently, the revision petition is partly allowed. While maintaining the judgment of conviction and the sentence of fine against the petitioner, passed by the trial Court and affirmed by the Appellate Court, the substantive sentence of imprisonment awarded to the petitioner is reduced to the period

of imprisonment already undergone by the petitioner. The petitioner is in jail. One depositing the amount of fine, he be set at liberty forthwith, if not required in any other case. The bail application, being S.B. Criminal Bail Application No.235/2005, stands disposed of.

(H.R. PANWAR), J.

mcs